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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/142,613 04/19/99 ISHIIGURO

K 1416/0F551PC

HM22/0621

EXAMINER

WENDEROTH LIND & PONACK  
2033 K STREET NW SUITE 800  
WASHINGTON DC 20006

TURNER, S

ART UNIT

PAPER NUMBER

10

1644

DATE MAILED:

06/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/142,613

Appl. (s)

Ishiguro

Examiner

Sharon L. Turner, Ph.D.

Group Art Unit

1644

 Responsive to communication(s) filed on 9-2-99 This action is FINAL. Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

 Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

 Claim(s) \_\_\_\_\_ is/are allowed. Claim(s) \_\_\_\_\_ is/are rejected. Claim(s) \_\_\_\_\_ is/are objected to. Claims 1-7 are subject to restriction or election requirement.

## Application Papers

 See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner. The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

 Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All  Some\*  None of the CERTIFIED copies of the priority documents have been received. received in Application No. (Series Code/Serial Number) \_\_\_\_\_. received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

 Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

*Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-6, drawn to antibodies and kit classified in class 530, subclass 387.1.  
*classified in Class 435*
  - II. Claim 7, drawn to a method of detecting Alzheimer's, subclass 7.1.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process of detection can be used with any of the products of group I or with an antibody to beta amyloid and the product of group I could alternatively be used in an assay for tau inhibitors.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and recognized divergent subject matter restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and the search required for each of the groups is not required for any other group, restriction for examination purposes as indicated is proper.

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6. This application contains claims directed to the following patentably distinct species of the claimed invention: In groups I, species a) phosphorylation sites, 198, 199, 202, 205, 231, 235, 262, 396, 403, 404, 409, 412, 413 and 422 and species b) peptides of SEQ ID NO:2-16. Applicant should elect a single species of group a and group b for initial prosecution on the merits.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 12, 16 and 22 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to, Sharon L. Turner, Ph.D. whose telephone number is (703) 308-0056. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at (703) 308-3973.

Sharon L. Turner, Ph.D.

June 19, 2000

*Christina Chan*  
CHRISTINA Y. CHAN  
SUPERVISORY PATENT EXAMINER  
GROUP 1600/1640